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10/743,178	12/23/2003	Li-Ming Cheng	21406-001	7280

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IRVINE, CA 92614

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 11/17/2008

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/743,178	Applicant(s) CHENG ET AL.	
	Examiner Blair M. Johnson	Art Unit 3634	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 05 August 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

/Blair M. Johnson/
Primary Examiner, Art Unit 3634

Continuation of 10. Other (including any explanation in support of the above items): Status of Claims: Claims 59,60, are said to be rejected but not on appeal. Such is incorrect. Such claims need not be argued separately but they stand rejected and are, thus, under appeal. The statement regarding claims 67-69 is incorrect. The referenced situation was resolved in the final action of 6/13/08. The rejection under 112(2) has not been argued. The amendment after filing of the appeal brief was denied entry due to the amendment to claim 70 introducing limitations requiring further consideration. The 112(2) rejections to claim 70,71 and 73 remain but have not been argued nor have the claims been properly amended. Regarding (5) above, the claims rejected under 103 of Gertz on in view of Kuhar in the brief is not consistent with the claims in the final office action. Also, the 112 rejection is under paragraph 2, and not 1 as stated in the brief. Regarding (6), above, Appellant has provided arguments based only on specific claims or groups of claims. The rules are clear that arguments must be presented under a heading for each rejection made. The arguments under headings for individual or groups of claims is permissible. The evidence submitted is in proper form and was timely filed and will be considered.